

# Notice of Allowability

Application No.

10/790,573

Examiner

Kevin S. Wood

Applicant(s)

CAPEWELL ET AL.

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 2/3/05.
2. ☒ The allowed claim(s) is/are 24-28,30,31 and 35-38.
3. ☒ The drawings filed on 1 March 02 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
AKM ENAYET ULLAH  
PRIMARY EXAMINER

## **ALLOWANCE**

### ***Response to Amendment***

1. This action is responsive to the Amendment received on 3 February 2005. Claims 24, 26, 30, 31, 36, and 37 are amended. Claims 23 and 29 are canceled. No new claims have been added. Claims 24-28, 30, 31, and 35-38 are the only claims pending.
2. Based on the Amendment, the informalities within claim 29 cited in the previous office action are now moot. Claim 29 has been canceled.

### ***Response to Arguments***

3. Applicant's arguments, filed 3 February 2005, with respect to claims 24-28, 30, and 31, have been fully considered and are persuasive. The rejections/objections of 24-28, 30, and 31 has been withdrawn.

The applicant states that all claims 24, 30, and 31 have been amended into independent for as suggested within the Non-Final Rejection mailed on 2 November 2004. Each of those claims had been cited as containing allowable subject matter. The applicant states that the amended claims should now be allowable over the prior art for the reasons cited in the Non-Final Rejection. The applicant also points out that rejected claims 23 and 29 have been canceled and claims 35-38 were already cited as allowable

over the prior art. The applicant argues that all of the remaining claims. Claims 24-28, 30, 31, and 35-38 are now in condition for allowance.

The examiner agrees with all of the applicant's arguments. Based on the Amendment filed 3 February 2005, all of the remaining claims are allowable over the prior art and are in condition for allowance.

***Allowable Subject Matter***

4. Claims 24-28, 30, 31, and 35-38 are allowed.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S. Wood whose telephone number is (571) 272-2364. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B. Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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